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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/650,388	08/29/2000	Ilario A. Coslovi	5699-15	8495
21324	7590	12/13/2004	EXAMINER	
HAHN LOESER & PARKS, LLP			JULES, FRANTZ F	
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AKRON, OH 44311-1076			PAPER NUMBER	
			3617	

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/650,388

Applicant(s)

COSLOVI ET AL.

Examiner

Frantz F. Jules

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 3-15, 18, 20, 23-26 and 28-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33-46 is/are allowed.
- 6) ☒ Claim(s) 3-10, 12-15, 18, 20, 23-26 and 28-32 is/are rejected.
- 7) ☒ Claim(s) 11, 16, 17, 19, 21, 22 and 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)):
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. In view of the Appeal brief filed on 10/21/2004, PROSECUTION IS HEREBY REOPENED. A new ground of obviousness rejection addressing the limitation of traction bars mounted to the bridge plates as recited in claim 8 is set forth below in addition to the previously presented grounds of rejection. The examiner's position on the other rejections remains the same. An appeal conference was held on the validity of the rejections formulated in the Final Rejection dated 05/11/2004. It was noticed that the Appellant did not argue the validity of the Bell reference as far as disclosing traction bars mounted to the plates in the response to the office action dated 03/23/2004 which gave rise to the Bell reference being used in the final rejection dated 05/11/2004. Appellant's argument regarding the Bell reference was only found in the amendment dated 03/24/2003 where arguments were drawn to the failure of the reference to disclose tread bars in fig. 1, and not traction bars mounted to the plates. The examiner's reliance of the Bell reference to disclose traction bars mounted to the plates in Bell reference was the truss members 14 and 16 seen in fig. 1. Upon further review of the Bell reference it was decided that truss members 14 and 16 are used for stiffening of the plate and the specific purpose of increasing traction is not disclosed. Therefore, it was concluded that the rejection of claim 8 over Bell reference of record used in the final rejection be substituted by another reference.

To avoid abandonment of the application, appellant must exercise one of the following two options:

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(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 3-7, 9-10, 13-15, 20, 23, 24-26, 29-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Black, Jr et al (US 5,782,187).

Claims 3-7, 9-10, 13-15, 20, 23, 24-26, 29-32

Black Jr et al teach all the limitations of claims 3-7, 9-10, 13-15, 20, 23, 24-26, 29-32 by showing in figs 1-9, a railroad car bridge plate operable to permit a vehicle to be conducted between two rail road cars (22a, 22b) as disclosed in col. 9, lines 45-50 and fig. 6, said bridge plate (32) comprising a beam locatable in a longitudinal orientation of sufficient length to span a gap between a pair of adjacent railroad cars (22a, 22b), said beam having an upwardly facing track surface or flange (34) for vehicle to ride on, said beam having a first pivot fitting (102a) allowing mounting of the beam to the railroad car (22a), said beam having a second fitting (102b) for engaging a second railroad car

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(22b), said fittings being operable to accommodate yawing of said beam relative to the first or second railroad cars (22a, 22b) when said beam is located in the longitudinal orientation, and the railroad cars in motion and one of said first and second fittings and said fitting permitting movement in a cross-wise orientation relative to the first railroad car when said beam is disengaged from the second railroad car.

The yawing motion of the beam in a direction transverse to the longitudinal plane of the railcars will result whenever the two railroad cars are to be disconnected since a polymeric collar (111) is provided around the member (102) as shown in fig. 8 for low friction sliding of each of the fittings 102a and 102b within their respective slots 106a and 106b as disclosed in col. 9, lines 51-53.

The first and the second railroad cars are releasably coupled to one another or are disengageable since a threaded connection is used to connect the bridge plate to the railroad cars. Moreover, said fitting consisting of collars (111, 102) for receiving a vertical pivot pin (105), said bridge plate being translatable relative to said second axis whenever one of the pivot pins is removed since a threaded bolt member (105) is used to connect the bridge plate (32) to the railcar (22a or 22b), see fig. 8.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Black Jr et al'187 in view of Petersen (US 5,836,028).

#### Claim 8

Black Jr et al teach all the limitations of claim 8 except for a railroad car bridge plate having traction bars on the upper surface thereof. The general concept of using traction bars on the top surface of a bridge plate is well known in the art as illustrated by Petersen which disclose the teaching of a ramp member comprising traction bars (20) mounted to the top surface thereof, see col 4, lines 8-12. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Black Jr et al to include the use of traction bars on the top surface of a bridge plate in his advantageous railroad car bridge plates as taught by Petersen in order to provide traction for the vehicles or load.

6. Claims 12, 18 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Black Jr et al'187 in view of Thompson'478.

#### Claims 12, 18 and 28

Black Jr et al teach all the limitations of claims 12, 18, 28 except for a railroad car bridge plate having a hand grab mounted thereto. The general concept of adding a hand grab to the bridge plate assembly of a railroad car unit is well known in the art as illustrated by Thompson'478 which discloses the teaching of a hand grab (36), see col 3, lines 71-72. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Black Jr et al to include the use of a hand grab mounted to the beam of his advantageous bridge plate as taught by Thompson'478 in order to facilitate

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rotation or handling of the bridge plate when the railroad cars are disconnected for service.

***Allowable Subject Matter***

7. Claims 11,16, 17, 19, 21, 22, 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Claims 33-46 stand allowable.

***Response to Arguments***

9. Applicant's arguments filed 03/24/03 have been fully considered but they are not persuasive.

A. Summary of applicant's arguments

In the amendment, applicant traversed the rejection of the newly amended claims 3-10, 12-15, 18, 20, 23-26, 28-32 for the following reasons:

1. The reference cited in the 102 rejection, Black Jr et al, fails to meet the following requirements:
  - (a) Black shows one railroad car, not two.
  - (b) Black does not show the coupler ends of the railroad car.
  - (c) Black does not show coupler end bridge plates.
  - (d) Black does not show a gap between two coupled railroad cars.
  - (e) Black does not show bridge plates spanning the gap between the coupler ends of the two coupled railroad cars.

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2. The reference cited in the 102 rejection, Black Jr et al, fails to meet the limitations bridge plates that can be disengaged from the end of the railroad cars.
3. The claim is premised on the idea that the bridge plate can be moved from a longitudinal orientation to a cross-wise orientation. there is nothing in Black that suggests that Black's plates are, ever have been, or ever will be. movable between a longitudinal position and a cross-wise position.
4. The prior art of record Black Jr et al fails to meet the requirement of claims 13-15, 20, and 23-26, 29-32 as to the bridge plates are disengageable from the adjacent railroad cars.
5. The combination rejection of Black Jr et al and Thompson is improper as Black Jr et al is designed to remain in position while Thompson is designed to remain in position.
6. There is no suggestion or motivation or reason to combine the references.
7. Bell reference fails to meet the limitations of traction bars mounted on the plates.

B. Response to applicant's argument

1. Applicant's argument that that Black Jr et al only show a single articulated railroad car and not two adjacently coupled railroad cars is weak since Black Jr et al reference clearly disclose articulated railcar units with separate cars that are coupled at their ends by the bridge plate members (32) and which decouples at various point in time.
- Contrary to applicant's contention, the railcar units are not are not permanently attached. The lack of a geeny or pivoting knuckle coupler at the end of the railcars is irrelevant. Black Jr et al meet all the limitations of claims 3-7, 9-10, 13-15, 20, 23, 24-26, 29-32 as explained above since Black Jr et al disclose a railroad car bridge plate



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that spans the gap between two railroad cars as recited in the claims. The bridge plate has been identified as item number 32 in the rejection above. Also, the connection between the bridge plate (32) and the railroad car (22) is disclosed in col. 2, lines 50-64 of the reference and as shown in Figs. 5-6, and 8. Applicant's argument that Black Jr et al fail to disclose a bridge plate spanning the gap between the coupler ends of the railroad cars is not understood as "a railroad car bridge plate (32) operable to permit a vehicle to be conducted between respective vehicle decks of a pair of first and second longitudinally coupled rail road cars", as recited in the claims, is disclosed by Black Jr et al.

2. In response to applicant's argument No. 2, it must be recognized that the connection for the bridge plate is such that it can be disengaged from the coupler end of the second railroad car. The connection is such that the bridge plate beam is disengageable from the railroad car whenever needed as explained above as shown in fig. 8 since the bridge plate is secured by bolt 105. Removal of bolt 105 permits disengagement of the bridge plate from the end of the railcar. The railcars are decoupled at various point in time for maintenance purposes.

3. In response to applicant's argument No. 3, it must be recognized that the bridge plates are fully capable of moving from a longitudinal orientation to a crosswise orientation and this is accomplished when the railcars travel through a curve. Its factual and accurate that a polymeric sleeve 111 is provided around the threaded bolt and stud or bushing member 102 as shown in fig. 8 for low friction sliding or the studs 102a and 102b within their respective slots 106a and 106b as disclosed in col. 9, lines 51-53. The

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slot is wide enough to permit the bridge plate to slide through and in a similar manner rotation of the bridge plate is in no way hindered by the slot when the railroad car negotiates a curve or when the beam is disengaged from the second railroad car. Thus, the limitation of "said fittings being operable to accommodate yawing of said beam relative to the first railroad car (22a, 22b) when said beam is located in the longitudinal orientation and the railroad cars are in motion" is fully met by Black et al.

4. Applicant's argument regarding claims 13-15, 20, and 23-26, 29-32 as to the fact that "there is no enabling disclosure in Black of bridge plates at the coupler ends of two railroad cars where the bridge plates are disengageable from the adjacent railroad car" has been addressed in light of the fact that no permanent attachment of the bridge plate with the railroad car exists in Black Jr et al. Fig. 8 of Black Jr et al reference clearly shows a fitting assembly which receive a threaded bolt which serves the purpose of disengagement of the fitting or of the bridge plate from the railroad car for various reason such as repair of one of the railroad cars.

5. Regarding applicant's argument number 5, it should be noted that the combination rejection was simply based on a teaching of a handle that is disclosed by the prior art of record, Thompson, which disclose a handle attached to the side of a bridge plate for the purpose of moving the plate out of position. A person of ordinary skill in the art would have been motivated to incorporate the handle of Thompson into Black Jr et al for the purpose of rotating the bridge plate out of position during service of the railroad cars and come up with the claim invention. Applicant's argument that the two prior arts are opposite in direction is weak since the bridge plate of Black Jr et al reference is

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mounted so as to be disengageable and that the railroad cars are not permanently attached or coupled together.

6. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, a person of ordinary skill in the art would have been motivated to incorporate the teaching of the handle of Thompson into Black Jr et al for the purpose of rotating and handling of the bridge plate out of position during service of the railroad cars.

7. Applicant's argument regarding the Bell reference is moot in view of the new ground of rejection.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz F. Jules whose telephone number is (703) 308-8780. The examiner can normally be reached on Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph S. Morano can be reached on (703) 308-0230. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

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305-7687 for regular communications and (703) 305-7687 for After Final communications.

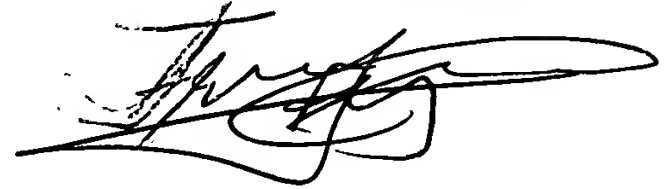
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Frantz F. Jules  
Primary Examiner  
Art Unit 3617

FFJ

December 9, 2004

**FRANTZ F. JULES**  
**PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to read 'Frantz', with a large, sweeping horizontal stroke extending to the right.